

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

TROY JOHNSON,)	Cause No. CV 07-025-GF-SEH-RKS
)	
Plaintiff,)	
)	
vs.)	FINDINGS AND RECOMMENDATION
)	OF U.S. MAGISTRATE JUDGE
ARAMARK; CASCADE COUNTY,)	
DBA Cascade County Regional Prison,)	
)	
Defendants.)	

On February 26, 2007, Plaintiff Troy Johnson filed a Complaint pursuant to 42 U.S.C. § 1983. Plaintiff is a state prisoner proceeding pro se. The Court has jurisdiction over the action pursuant to 28 U.S.C. § 1331.

On August 8, 2007, the Court issued an Order explaining certain deficiencies in Plaintiff's Complaint and giving him an opportunity to file an Amended Complaint. On August 14, 2007, Plaintiff's service copy of that Order was returned.

D. Mont. L.R. 5.4(a) requires parties proceeding pro se to "promptly file with the Court and serve upon all opposing parties a Notice of Change of Address specifying the new address." Plaintiff failed to comply, despite being advised of the need to report a change of address. See Notice of Case Opening (doc. 3) at 1; Order Granting Forma Pauperis Status (doc. 5) at 10.

D. Mont. L.R. 5.4(b) provides:

The Court may dismiss a complaint without prejudice or strike an answer when:

- (1) mail directed to the attorney or pro se party by the Court has been returned to the Court as not deliverable; and
- (2) the Court fails to receive within 60 days of this return a written communication from the attorney or pro se party indicating a current address.

Plaintiff has not been in contact with the Court since March 12, 2007, when he submitted a completed motion to proceed in forma pauperis (doc. 4). Mail addressed to him at his last known address of record has been returned as undeliverable. Accordingly, the Court recommends that his Complaint in this case be dismissed under D. Mont. L.R. 5.4.

Based on the foregoing, the Court enters the following:

RECOMMENDATION

1. Plaintiff's Complaint (doc. 1) should be DISMISSED for failure to comply with D. Mont. L.R. 5.4.

2. Pursuant to Fed. R. App. P. 24(a)(4)(B), the District Court should CERTIFY that any appeal from its disposition would be taken in bad faith because Plaintiff failed to advise the Court of a change in his mailing address despite two explicit warnings about the need to do so.

NOTICE OF RIGHT TO OBJECT TO FINDINGS & RECOMMENDATION AND CONSEQUENCES OF FAILURE TO OBJECT

Pursuant to 28 U.S.C. § 636(b)(1), Plaintiff may serve and file written objections to this Findings and Recommendations within ten (10) business days of the date entered as indicated on the Notice of Electronic Filing. A district judge will make a de novo determination of those portions

of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge.

Plaintiff must immediately inform the Court of any change in his mailing address. Failure to do so may result in dismissal of this case without notice to him.

DATED this 23rd day of October, 2007.

/s/ Keith Strong
Keith Strong
United States Magistrate Judge